

Appl. No. 10/091/983
Amdt. dated 07/06/2004
Reply to Office action of 05/04/2004

REMARKS/ARGUMENTS

Reconsideration is requested of all rejections based on 35 U.S.C. 103:

Examiner has not been persuaded by the arguments filed 2 February 2004 because "Applicants contest that Kraft does not show an annealing step". Examiner then argues that Kraft does show a post-nitridation anneal step as evidenced in Column 5 line 11.

With the greatest respect, we must point out that what we actually wrote was "This argument by Examiner would be valid if Kraft's process included an annealing step. But it does not! See for example Kraft's FIGs. 4a and 4b." This difference between our statement and Examiner's summary thereof is important because, in col. 5 line 11, Kraft merely notes that "...a post nitridation anneal can be altered/used...", but nowhere does Kraft teach that it is required if his invention is to work properly. We refer again to his FIGs. 4a and 4b which summarize his invention. Thus, having demonstrated that he is aware of the possibility of a post nitridation anneal, Kraft does not include it in his process (where it would be counter-productive).

Additionally, there remains the question of how, precisely, a post nitridation anneal is to be implemented. The present invention claims a post nitridation anneal that is to be carried out in a mixture of nitrogen and oxygen. Examiner asserts that this, too, is taught by Kraft, citing col. 4 lines 12-29. We must respectfully point out that this is incorrect, said teaching relating, in fact, to the composition of the **plasma** that is used in step 504. In a post nitridation anneal there is no plasma present, only unionized gas and, furthermore, exposure to a plasma would be likely to increase the density of

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structural defects, not decrease it, as we claim.

Since virtually any process can be duplicated by combining, in the right order, individual process steps taken from known processes, it is not sufficient to argue that it would be obvious to duplicate a given invention simply by combining two or more process steps taken from the prior art. As detailed in MPEP section 2143.01, examiner is required to provide a motive for one skilled in the art to select, and then combine, the particular steps needed to construct the invention under examination.

We therefore respectfully request that examiner provide (a) a reference which teaches using a mixture of nitrogen and oxygen gas for a post nitridation anneal, (b) a motivation for one skilled in the art to add such an anneal step to Kraft's process since Kraft has chosen to not include it in his process, and (c) a motivation for one skilled in the art to substitute a decoupled plasma for any of the other plasma processes taught by Kraft, since, while noting the existence of a decoupled plasma, Kraft does not include one in the list of plasma types that may be used to effect his invention.

In view of the above arguments, applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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